OHIO SENATE BILL 139: GOOD, BUT NOT GOOD ENOUGH

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I. INTRODUCTION

On April 30, 2019, Ohio State Senators Theresa Gavarone[1] (R-Bowling Green) and Bob Peterson[2] (R-Washington Court House) introduced the "First-time Home Buyer Savings Act," or Senate Bill 139 (SB 139).[3] The proposed legislation would allow an individual or a married couple to open a certain type of savings account for the sole purpose of amassing funds for the purchase of a first home, either by himself, herself, themselves, or an appointed beneficiary of the account, such as a child.[4] The savings account could be opened at any financial institution in the State of Ohio, and, upon the creation of the account, the account holder(s) can contribute funds to the account.[5] Each year, a certain amount of money contributed to the account (dependent upon whether the account is held by an individual or a couple) would be tax deductible.[6] On May 15, 2019, the Bill was referred to the "Ways and Means" Committee in the Ohio Senate, marking its most recent status change.[7]

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[1] *Information on Senator Theresa Gavarone*, THE OHIO S. 133D GEN. ASSEMB., http://www.ohiosenate.gov/senators/gavarone (last visited Apr. 12, 2020).

[2] *Information on Senator Bob Peterson*, THE OHIO S. 133D GEN. ASSEMB., http://www.ohiosenate.gov/senators/peterson (last visited Apr. 12, 2020).

[3] *Gavarone and Peterson Introduce Bill to Make Home Buying Affordable*, THE OHIO S. 133D GEN. ASSEMB. (Apr. 30, 2019), http://www.ohiosenate.gov/senators/gavarone/news/gavarone-and-peterson-introduce-bill-to-make-home-buying-more-affordable.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] S.B. 139, 133d Gen. Assemb., Reg. Sess. (Ohio 2019).

If SB 139 is enacted, Ohio will join at least eight other states[8] that have enacted similar bills, including Oregon,[9] Alabama,[10] Iowa,[11] Mississippi,[12] Colorado,[13] Minnesota,[14] Virginia[15] and Montana.[16] Like the Ohio Senate, various state legislatures have tried to take action due to the rising costs associated with owning a home; however, each state's legislation seems to have fallen short of the intended objective. After all, these bills do not get to the bottom line of why millennials are not able to afford houses. While there are many factors contributing to millennials' inability to afford houses, among the most prevalent are millennials' obligation to pay off other, more pressing debt, such as student loan debt, credit card debt, and car loan debt. Moreover, many millennials are placed in a financial drought from the rising cost of renting and the stagnation of income growth.[17] According to research conducted by CNBC, when home buyers of various ages were asked about different expenses that delay the ability to save for a home purchase, 53% of buyers age 37 and younger delayed purchasing a home due to student loans;[18] 32% of that same age range of buyers had to pay off credit card debt before saving for a home, while 37% had car loans to pay off.[19]

One of the forces claimed to drive SB 139 is the current millennial housing "crisis" that has gained widespread attention, as the oldest millennials—born in 1981—have surpassed the average age at which

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[8] Sarah O'Brien, *More States are Creating Tax-Advantaged Savings Accounts Just for First-Time Home Buyers*, CNBC (May 20, 2018), https://www.cnbc.com/2018/05/18/more-states-are-creating-tax-advantaged-savings-accounts-just-for-first-time-home-buyers.html.
[9] H.R. 4007, 79th Legis. Assemb., Reg. Sess. (Or. 2019).
[10] H.R. 248, 2018 Reg. Sess. (Ala. 2018).
[11] S. File 505, 86th Gen. Assemb. (Iowa 2015).
[12] H.R. 1601, 2017 Reg. Sess. (Miss. 2017).
[13] H.R. 16-1467, 72nd Gen. Assemb., Reg. Sess. (Colo. 2016).
[14] H.R. 1234, 90th Leg. (Minn.2017).
[15] H.R. 331, 2014 Sess. (Va. 2014).
[16] Savannah Cardon, *Proposed Savings Account Would Help Idahoans Buy Their First Home*, IDAHO ST. J. (Feb. 4, 2019), https://www.idahostatejournal.com/news/local/proposed-savings-account-would-help-idahoans-buy-their-first-home/article_5b5c6653-ec36-5ed3-8fef-fec5a74901de.html.
[17] *See generally* Michael Hobbes, *Why Millennials are Facing the Scariest Financial Future of any Generation Since the Great Depression*, HUFFINGTON POST, https://highline.huffingtonpost.com/articles/en/poor-millennials/?mobile=1 (last visited Oct. 19, 2019).
[18] Sarah O'Brien, *Saving for a House Could Get You a Tax Break, Depending Where You Live*, CNBC: PERSONAL FIN. (June 29, 2018), https://www.cnbc.com/2018/06/28/saving-for-a-house-could-get-you-a-tax-break-depending-where-you-live.html.
[19] *Id.*

most first-time homebuyers purchase a home (32 years old).[20] According to a Pew Research Center study, published in 2017, only 22% of millennials lived in owner-occupied homes (not owned by their parents), and 74% were living in rental properties in 2016.[21] The term owner-occupied refers to houses or apartments that have been bought by the people who live in them.[22] The study compared four generations—millennials, Gen Xers, late boomers, and early boomers—to determine what percentage of each generation resided in owner-occupied homes, versus rental properties, at the age of 35.[23] Comparatively, millennials made up the lowest percentage for owner-occupied homes, and the highest percentage for rental property occupants.[24] This data only touches the surface of the so-called "crisis," and many millennials feel the dream of owning their own home may never become a reality.[25]

While the effort of these legislatures appears to be genuine, a deeper understanding is needed to solve this monstrous societal problem. Not only have average prices of homes and the amount of debt an individual holds increased throughout the past few decades, but the average annual income growth has experienced stagnation.[26] While many young Americans back in the 1940s, 50s, 60s, and beyond looked to buying a home as the ultimate goal, millennials associate home buying with fear and discouragement.[27]

For the purposes of analyzing why SB 139 will not achieve its underlying intent of increasing home affordability for first-time homebuyers, this Note will first provide background information regarding home prices and income levels throughout certain generations, the average amount of debt an American has held in

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[20] *Id.*; *Defining Generations: Where Millennials End and Generation Z Begins*, PEW RES. CTR. (Jan. 17, 2019), https://www.pewresearch.org/fact-tank/2019/01/17/where-millennials-end-and-generation-z-begins/.

[21] *Are Young Adult Movers Renting or Buying?* PEW RES. CTR. (Feb. 10, 2017), https://www.pewresearch.org/fact-tank/2017/02/13/americans-are-moving-at-historically-low-rates-in-part-because-millennials-are-staying-put/ft_17-02-07_millennial-mobility_3/.

[22] *Owner-Occupied Definition*, CAMBRIDGE DICTIONARY, https://dictionary.cambridge.org/us/dictionary/english/owner-occupied (last visited Oct. 19, 2019).

[23] PEW RESEARCH CENTER, *supra* note 21.

[24] *Id.*

[25] *See generally* Hobbes, *supra* note 17.

[26] *See generally* Lawrence Mishel, et al., *Wage Stagnation in Nine Charts*, ECON. POL'Y INST. (Jan. 6, 2015), https://www.epi.org/publication/charting-wage-stagnation/.

[27] Hobbes, *supra* note 17.

previous decades, and the average amount of debt an American holds today. After assessing past home-buying climates, as well as the underlying context and issues surrounding the millennial housing crisis, SB 139 will be explained in some detail, by touching on its important provisions, discussing their pros and cons, and, finally, explaining why it may be good—but not good enough—for the millennial generation.

II. HOME PRICES AND INCOME LEVELS THROUGH THE GENERATIONS

Sifting through U.S. Census data, it is apparent how drastically the affordability of an average home has decreased from 1940 to 2019.[28] When the 16th decennial census of population began on April 1, 1940, the average household income was $1,368.[29] An income of $1,368 in 1940 equates to approximately $25,069.38 today, adjusted for inflation.[30] According to a chart provided by the United States Census Bureau, the median price of a home in 1940, adjusted to 2019 dollars, was $45,590.45.[31] To put this into better perspective, a mortgage worth $45,000 in today's terms, with an interest rate of 4.50%,[32] for the length of 30 years, would be equivalent to a monthly payment of $228.01.[33]

In 1961, the average income of families was approximately $5,700.[34] This amount would be equal to roughly $48,909.05 in today's money.[35] In 1960, the median home value was $87,307.19, again, adjusted to 2019 dollars.[36] So, translating this data into

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[28] *See generally* U.S. CENSUS BUREAU, HISTORICAL CENSUS OF HOUSING TABLES, HOME VALUES (last updated June 6, 2012), https://www.census.gov/hhes/www/housing/census/historic/values.html.

[29] Diane Petro, *Brother, Can You Spare a Dime?*, 44 PROLOGUE MAG. (2012), https://www.archives.gov/publications/prologue/2012/spring/1940.html.

[30] BUREAU OF LABOR STATISTICS, CPI INFLATION CALCULATOR, http://www.in2013dollars.com/us/inflation/1961?amount=5700 (last visited Sept. 30, 2019).

[31] U.S. CENSUS BUREAU, *supra* note 28.

[32] An interest rate of 4.50% is higher than the average 2019 rate so far. As of October 18, 2019, the average 30-year fixed APR rate is 4.11%. Holden Lewis, *Current Interest Rates*, NERDWALLET (Oct. 9, 2019), https://www.nerdwallet.com/blog/mortgages/current-interest-rates/.

[33] *30 Year $30,000 Mortgage Loan*, DOLLARTIMES, https://www.dollartimes.com/loans/mortgage-rate.php?length=30&amount=30000 (last visited Sept. 30, 2019).

[34] *Consumer Income*, CURRENT POPULATION REPORTS (Feb. 28, 1963), https://www2.census.gov/prod2/popscan/p60-039.pdf.

[35] BUREAU OF LABOR STATISTICS., *supra* note 30.

[36] U.S. CENSUS BUREAU, *supra* note 28.

mortgage terms, a 30-year mortgage for the average price above, with a 4.50% interest rate, would equal a monthly payment of $442.37.[37] The 1980s followed suit, with an average income of $21,063.06,[38] equal to around $65,581.27 today.[39] The median price of a home in 1980, converted to today's dollars, was $139,155.15.[40] In 2000, the median household income was $42,148, equivalent to about $62,795.62, today.[41] The average house cost $178,190.11 in today's dollars.[42]

The most relevant information available regarding average household income and average home price today, is from 2018. At the time this Note was written, the median household income in the United States was $61,822.[43] According to the National Association of Realtors, the average price of homes purchased by first-time home buyers was $219,300[44]—that is more than three times the average income. Another way to comprehend these changes in home prices versus income is to look at the resulting front-end ratio. A front-end income ratio measures how much of one's gross income would go toward a mortgage payment, by dividing the mortgage payment (either yearly or monthly), by gross income (either yearly or monthly, but it must be the same metric used with the mortgage amount).[45] Gross income is an individual's total pay from his or her employer, before taxes or other deductions.[46] Mortgage lenders look at this ratio when considering a mortgage application.[47] Today, lenders usually prefer a

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[37] DOLLARTIMES, *supra* note 33.
[38] *US Average Household Income by Year*, MULTPL, https://www.multpl.com/us-average-income/table/by-year (last visited Sept. 30, 2019).
[39] OFFICIAL DATA FOUND., *supra* note 30.
[40] *Id.*
[41] *Id.*
[42] U.S. CENSUS BUREAU, *supra* note 28.
[43] PK, *Household Income Percentile Calculator for the United States*, DQYDJ: ECON., https://dqydj.com/household-income-percentile-calculator/ (last visited Sept. 30, 2019).
[44] Crissinda Ponder, *The Average Price of a Starter Home Across the U.S.*, THE BALANCE: BASICS (June 25, 2019), https://www.thebalance.com/here-s-the-average-cost-of-a-starter-home-in-2018-4172916.
[45] *Front-End Debt-to-Income Ratio (DTI) Definition*, INVESTOPEDIA, https://www.investopedia.com/terms/f/front-end-debt-to-income-ratio.asp (last updated June 24, 2019).
[46] *Gross Income*, INVESTOPEDIA, https://www.investopedia.com/terms/g/grossincome.asp (last updated Sept. 25, 2019).
[47] Tony Guerra, *The Recommended Ratio of a House Price to Your Yearly Income*, SFGATE, https://homeguides.sfgate.com/recommended-ratio-house-price-yearly-income-44843.html (last updated Dec. 15, 2018).

front-end ratio that is no more than twenty-eight percent.[48] In order to better illustrate how average home-buyers' front-end ratio has evolved throughout the decades, this Note will look at different hypothetical first-time homebuyers for each decade discussed.

The first hypothetical involves Joe and Mary, who are newlyweds in 1940. Joe earns a yearly salary of $1,368 by working at a prospering dairy farm in rural Ohio. Mary is a homemaker and a young mother to their newborn child. They find a home that they want to purchase in the small town close to the farm that Joe works on. The house costs $2,487.81. Joe goes to a local bank and asks to take out a loan to purchase the home. Assuming the banker, Bill, offers the young couple a 30-year mortgage, with a 4.50% interest rate, Joe's approximate mortgage payment would be $12.61 monthly or $151.32 annually.[49] When reviewing his credentials, Bill calculates Joe's front-end ratio, which is 11.06%. In other words, Joe and Mary would have to use 11.06% of their gross income solely on the mortgage payments for their home. However, the true cost of ownership could be much higher than 11.06%, as Joe and Mary will also need to pay for items such as property tax and routine maintenance on the home, which are not included in the front-end ratio calculation.

Fast-forwarding to 1960, John and Susan, together, earn an average household income of $5,700. They find a beautiful house in a quaint neighborhood that looks perfect for raising a family. The house costs $10,072.94. Assuming that John and Susan go to the bank and are offered a 30-year mortgage, with a 4.50% interest rate, the couple's mortgage payment would be $51.04 per month or $612.48 annually.[50] This would make John and Susan's front-end ratio 10.75%. Again, as noted in the previous hypothetical, John and Susan would be paying more than 10.75% of their gross income in order to cover property taxes, home maintenance, and Homeowners Association fees, among other expenses. But, looking only at the mortgage payment itself, 10.75% of the couple's gross income would be going towards their mortgage.

In 1980, Michael and Melissa look to purchase their first home. They find a home that they would like to buy, priced at $44,693.15. Michael's yearly income is $11,000 as an associate at a small law firm. Melissa is a nurse and earns approximately $10,063.06 per year. So, together, the couple's gross income is $21,063.06. Michael and

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[48] *Id.*; *see generally* David M. Harrison, *The Importance of Lender Heterogeneity in Mortgage Lending*, 49 J. URB. ECON. 285 (2001).
[49] DOLLARTIMES, *supra* note 33.
[50] *Id.*

Melissa take out a 30-year mortgage for the price of the home, with an interest rate of 4.50%. The couple's monthly payment would equal $226.45, or $2,717.40 annually.[51] Therefore, Michael and Melissa's front-end ratio is 12.90%.

In 2000, Scott and David are looking to buy a home and start a small family. They have found a perfect home in New Jersey, priced at $119,600.00. Scott is a schoolteacher in New York City, while David just started a job as a chef in the New Jersey town in which they want to settle. Together, they earn $42,148 annually. Taking out a 30-year mortgage, with an interest rate of 4.50%, Scott and David's monthly mortgage payment is $606.00, or $7,272 annually.[52] This sets their front-end ratio at 17.25%.

Finally, in present day, Jason and Sarah are first-time homebuyers. Jason and Sarah have been living in an apartment, but now that they have a baby, they want to find a home with more space. Jason and Sarah make $61,822.00, together, annually. They find a home that is priced at $219,300.00. If they take out a 30-year mortgage, with a 4.5% interest rate, they will owe $1,111.16 every month, or $13,333.92 annually.[53] Therefore, their front-end ratio would be 21.57%.

Note that all of the aforementioned incomes and house prices for each hypothetical couple are the actual averages for their respective decades. To summarize all of the hypotheticals offered above, and to provide a visual representation of changes in average incomes, average home prices, and average front-end ratios over the decades, refer to Table One (Table 1), below.

Table 1	1940 Joe and Mary	1960 John and Susan	1980 Michael and Melissa	2000 Scott and David	Current Jason and Sarah
Annual Income	$ 1,368.00	$ 5,700.00	$ 21,063.06	$ 42,148.00	$ 61,822.00
Home Price	$ 2,487.81	$ 10,072.94	$ 44,693.15	$ 119,600.00	$ 219,300.00
Annual Mortgage Payments	$ 151.32	$ 612.48	$ 2,717.40	$ 7,272.00	$ 13,333.92
Front-End Ratio	11.06%	10.75%	12.90%	17.25%	21.57%

As stated previously, the front-end ratio, displayed as a percentage, shows what portion of an individual's income will be, or is, designated to mortgage payments.[54] One of the ways to calculate the ratio is by dividing an individual's annual mortgage payment, by their annual gross income.[55] Higher front-end ratios imply an

[51] *Id.*
[52] *Id.*
[53] *Id.*
[54] INVESTOPEDIA, *supra* note 45.
[55] *Id.*

increased risk of default and, therefore, lower affordability of housing, while lower front-end ratios, conversely, show a decreased risk of default and higher affordability of housing.[56] It can be seen from the table above that, as time has passed, the front-end ratios have increased significantly. In the 40-year period between 1940 and 1980, the front-end ratios of average homebuyers decreased by 0.31%, then increased by only 2.15%. However, during the roughly 40-year period between 1980 and present day, the front-end ratio of average homebuyers has grown by a large percentage of 8.67%. There are many contributors in existence that can be blamed for this significant increase.[57] However, one that is worth discussing is the fact that home prices are increasing at a faster pace, or even outpacing, the average income of an individual or family.[58]

Why is it that, from 1940 to 1960, 1960 to 1980, and 1980 to 2000, the average household income almost doubles, while, between 2000 and current day, the annual income has risen about $20,000 less than double?[59] To be exact, between 1940 and 1960, the average annual income increased by $4,332.[60] The average annual income increased by $15,363.06 between 1960 and 1980, and, between 1980 and 2000, households on average made $21,084.94 more per year.[61] Unfortunately, and to the dismay of many average Americans, they have only seen their income increase by $19,674 in the past 18 years.[62] Therefore, the income growth that helped many Americans afford the rising housing costs over the years, has disappeared.

"The economy is growing. Why aren't people feeling it? The answer is: [b]ecause they literally aren't feeling it," Heather Boushey, an economist with The Washington Center for Equitable Growth, explained.[63] In larger, more populated cities, like San Francisco and

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[56] *Id.*

[57] *See generally* Alexis C. Madrigal, *Why Housing Policy Feels Like Generational Warfare*, THE ATLANTIC: TECH. (June 13, 2019), https://www.theatlantic.com/technology/archive/2019/06/why-millennials-cant-afford-buy-house/591532/.

[58] *See generally* Alcynna Lloyd, *Home Prices are Rising Faster than Wages in 80% of U.S. Markets*, HOUSINGWIRE (Jan. 10, 2019), https://www.housingwire.com/articles/47878-home-prices-are-rising-faster-than-wages-in-80-of-us-markets/.

[59] *See supra* table 1.

[60] *Id.*

[61] *Id.*

[62] *Id.*

[63] Josh Bersin, *Why Aren't Wages Keeping Up? It's Not the Economy, It's Management*, FORBES (Oct. 31, 2018, 11:18 AM), https://www.forbes.com/sites/joshbersin/2018/10/31/why-arent-wages-keeping-up-its-not-the-economy-its-management/#6795b7e2397e.

New York, housing prices and rents have experienced a consistent 2.5% annual appreciation above inflation, which results in a quadrupling of housing costs, since 1950.[64] Yet, incomes have nowhere near quadrupled in order to keep up with the housing prices. In a recent report from the Census Bureau, a marked slowdown in median household income growth was observed, relative to previous years.[65] In looking only at the data from 2015, 2016, and 2017, median household incomes have increased at a remarkably slower rate, compared to previous years.[66] For example, median household incomes rose only 0.9% in 2018, compared to a 1.8% rise in 2017, a 5.1% rise in 2015, and a 3.1% rise in 2016.[67] Therefore, this recent report reminds Americans that the majority of household incomes have still not fully recovered from the incredible losses suffered in the Great Recession,[68] which is one of the main culprits behind the desperate economy today.[69]

III. HOUSING SHORTAGE

With income stagnation and the decreasing affordability of housing, many believed that building more homes could help solve the housing supply crisis and therefore lower the overall price of purchasing a home. However, additions to the housing market have grown at an average annual rate of only ten percent, since 2011, when the housing market hit bottom during the Great Recession.[70] Additionally, many individuals, who were skeptical of the notion of building more homes to increase affordability, have fought development in their communities.[71] The advocates of building more

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[64] Derek Fidler & Hicham Sabir, *The Cost of Housing is Tearing Our Society Apart*, WORLD ECON. F. (Jan. 09, 2019), https://www.weforum.org/agenda/2019/01/why-housing-appreciation-is-killing-housing/.

[65] Elise Gould & Julia Wolfe, *Slowdown in Household Income Growth Continues in 2018*, ECON. POL'Y INST.: WORKING ECON. BLOG (Sept. 10, 2019, 4:55 PM), https://www.epi.org/blog/slowdown-in-household-income-growth-continues-in-2018/.

[66] *Id.*

[67] *Id.*

[68] *See generally* Chad Borgman, *After the Fall: Income Inequality and the Great Recession*, HARV. POL. REV. (Dec. 3, 2018), https://harvardpolitics.com/columns-old/after-the-fall-income-inequality-and-the-great-recession/.

[69] *Id.*

[70] *The State of the Nation's Housing 2019*, JOINT CTR. FOR HOUSING STUD. OF HARV. U. 1 (2019).

[71] Vicki Been, Ingrid Gould Ellen & Katherine O'Regan, *Supply Skepticism: Housing Supply and Affordability*, 29 HOUSING POL'Y DEBATE 25, 25 (2019).

houses believe "that increasing the supply of market rate housing will improve housing affordability."[72] However, "supply skeptics" rebut with arguments that include, the protection of historic streetscapes, low-density character, individual viewsheds, protecting low income individuals who may be hurt by new developments, and other traditional not-in-my-backyard worries.[73] This convergence of opposition proves a successful barrier to development in many cities.[74] To fuel these skeptics even more, local politicians, economists, and other experts, who favor the notion of development in order to increase the affordability of homes, have not provided satisfactory answers to their opponents' arguments.[75] Instead, they are likely to ignore or discount the benefits that may flow from growth-hindering regulations, dismiss local costs that would result from growth, and view the supply skeptics insincerely.[76]

Observing this trend, researchers Vicki Been, Ingrid Gould Ellen, and Katherine O'Regan published an article in an attempt to "bridge the divide" between the arguments of the supply skeptics and the results of research focusing on housing supply and its effect on affordability.[77] The three researchers observed that "many of the [supply skeptics'] arguments are plausible, and research does not fully counter all of them, but the preponderance of evidence suggests that easing barriers to new construction will moderate price increases and therefore make housing more affordable to low- and moderate-income families."[78] Additionally, they state that the supply restrictions of housing constrain the ability of workers to move to other communities or areas with expanding job opportunities.[79]

Been, Ellen, and O'Regan are not the only ones observing, and creating discussion around, this trend of decreasing housing affordability. The Joint Center for Housing Studies of Harvard University (JCHS) is also studying this trend, observing its causes and reporting both its potential and real consequences that are currently being experienced.[80] Due to its extensive and thorough research on the topic, it may be beneficial to provide some background on JCHS. The

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[72] *Id.*
[73] *Id.* at 26.
[74] *Id.*
[75] *Id.*
[76] *Id.*
[77] *Id.*
[78] *Id.* at 26–27.
[79] *Id.*
[80] *Our Mission*, JOINT CTR. FOR HOUSING STUD. OF HARV. U., https://www.jchs.harvard.edu/about/history (last visited Nov. 10, 2019).

Center is comprised of a group of people interested in understanding housing issues and informing policy surrounding housing, development, and other areas of interest.[81] The Center assists leaders in government, business, and the civic sector, in making decisions that "effectively address the needs of cities and communities," using its extensive research, education, and public outreach programs.[82] Moreover, JCHS provides executive and graduate courses, fellowships, and internship opportunities, in order to train and inspire the next generation of housing leaders.[83]

One of the "signature reports" JCHS offers is called the "State of the Nation's Housing," which provides an extensive report on the respective year's housing health around the United States.[84] The 2019 State of the Nation's Housing Report offers an abundance of research and data on multiple facets of the current housing industry, further supporting the trend discussed above.[85] One of the facets discussed was the housing supply and its arguable failure to rebound after 2008's Great Recession.[86] As stated previously, additions to the housing stock hit rock bottom in 2011, with just 633,000 new units, and, since then, additions to the housing stock have grown at a mere average annual rate of ten percent.[87] Even though the housing stock is technically growing, "completions and placements totaled only 1.2 million units last year," which marked the lowest annual production (excluding 2008-2018), since 1982.[88] For nearly a decade, the number of net new households dropped below one million.[89] One of the lowest records was a mere 534,000 new houses in 2009.[90] While one million may seem like a reasonable number to many, history reveals otherwise.[91] "[E]ven through the three recessions and large demographic shifts that occurred between 1980 and 2007, household growth still averaged 1.3 million annually and only dipped below one million once."[92] Now, in 2019, while the economy appears to be back on track, new construction

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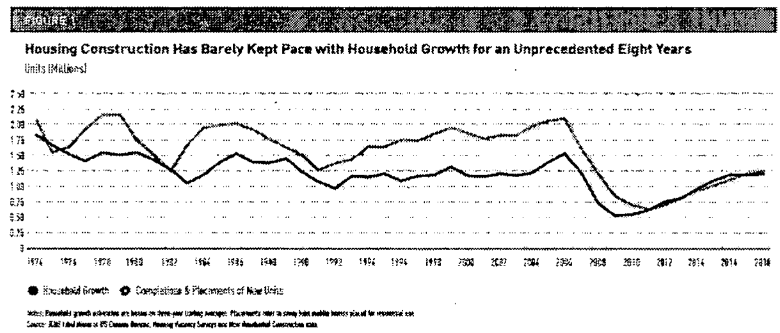
[81] *Id.*
[82] *Id.*
[83] *Id.*
[84] *See generally The State of the Nation's Housing 2019, supra* note 70.
[85] *Id.*
[86] *See generally* Borgman, *supra* note 68.
[87] *The State of the Nation's Housing 2019, supra* note 70, at 1.
[88] *Id.*
[89] *Id.*
[90] *Id.*
[91] *Id.*
[92] *Id.*

of houses is still being outpaced by their demand, leaving many want-to-be homeowners renting.[93] The graph below illustrates this point.[94]



[95]

Because the demand for housing is outpacing the supply, the national vacancy rate for both owner-occupied and rental units fell in 2018, to 4.4 percent—its lowest point since 1994.[96] Vacancy rate is another indicator of overall housing market health in a given area, and it is "one of the key statistics [that the National Association of Home Builders (NAHB)][97] tracks to judge the health and direction of the housing market."[98] The NAHB is a federation of more than 700 state and local associations.[99] About one-third of these association's members are home builders and remodelers, while the remainder of the association's members are in specialties, such as sales and marketing, housing finance, and manufacturing and supplying building materials.[100] "Each year, NAHB's members construct about 80% of the new homes built in the United States, both single-family and multifamily."[101]

Assistant Vice President for Housing Policy Research with NAHB, Natalia Siniavskaia, wrote an article this past February discussing how

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[93] *Id.*
[94] *The State of the Nation's Housing 2019*, *supra* note 70, at 2.
[95] *Id.*
[96] *Id.*
[97] *About NAHB*, NAT'L ASS'N OF HOME BUILDERS, https://www.nahb.org/about-nahb.aspx (last visited Nov. 19, 2019).
[98] Natalia Siniavskaia, *What Do Vacancy Rates Tell Us about the Shortage of Housing?*, NAT'L ASS'N OF HOME BUILDERS: EYE ON HOUSING (Feb. 15, 2019), http://eyeonhousing.org/2019/02/what-do-vacancy-rates-tell-us-about-the-shortage-of-housing/.
[99] *About NAHB*, *supra* note 97.
[100] *Id.*
[101] *Id.*

vacancy rates serve as an indicator of a housing shortage.[102] One of her first assertions states that the "currently low homeowner and rental vacancy rates are typically interpreted as a sign of tight housing markets, with lower vacancy rates signaling a greater housing shortage."[103] The NAHB measured vacancy rates across the United States, noting that normal vacancy rates may differ across metropolitan areas, due to factors such as mobile labor markets, higher population turnover, and the particular area being a vacation destination.[104] Their analysis found that large metro markets "show the largest shortage of rental and for sale vacant units simply due to the sheer size of [the] housing markets."[105] These large markets are highly sensitive to changes in vacancy rates, so much so that "even a small percentage drop below the long run average vacancy rate results in a shortage of thousands of vacant units."[106]

The graph on the next page, featured in Siniavskaia's article, illustrates the shortfall of renter vacancies, with the reddest states needing in excess of 20,000 rental units, just to reach normal rental vacancy rate levels again.[107] Siniavskaia points out that "[a]s of 2017, Atlanta-Sandy Springs Roswell, GA, Dallas-Fort Worth-Arlington, TX, New York-Newark-Jersey City, NY-NJ-PA, Phoenix-Mesa-Scottsdale, AZ all needed in excess of 25,000 rental units just to bring the rental vacancy rate back to normal levels."[108]

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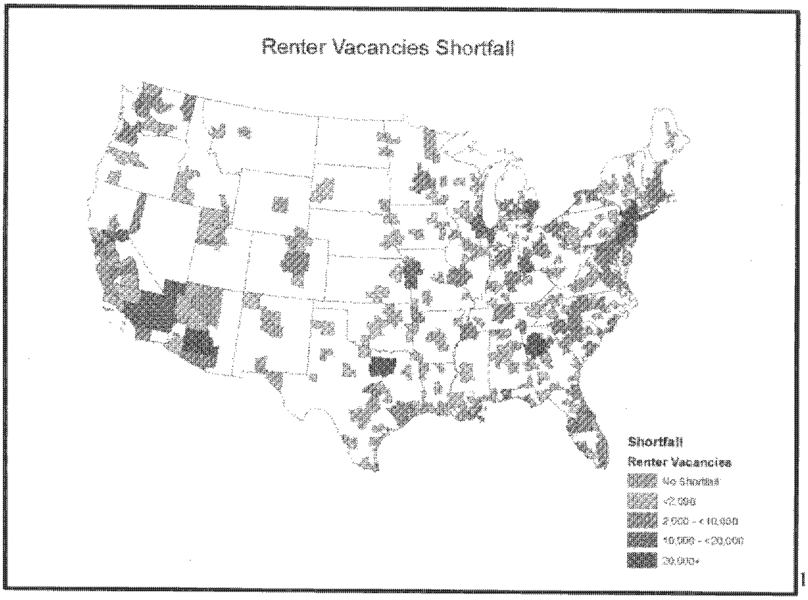
[102] Siniavskaia, *supra* note 98.
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] *Id.*
[107] *Id.*
[108] *Id.*



[109]

Furthermore, Siniavskaia's analysis shows that the metro markets with "abnormally low vacancy rates" are correlated with both worse current affordability and future affordability of housing.[110] Concluding her findings, she contends that "the above estimates thus only evaluate shortages of vacant units needed to bring the current vacancy rates back to the normal levels and do not attempt to include the additional housing shortfall due to pent-up housing demands."[111]

Specifically, in single-family housing terms, single-family housing "starts,"[112] in 2018, remained below one million for the eleventh consecutive year.[113] In fact, single-family housing construction has been below the current levels only once in the preceding twenty-five years.[114] Moreover, combining Census Bureau estimates of the value of single-family construction and JCHS's estimates of homeowner improvement and repair spending, expenditures on construction totaled $658 billion in 2018—and only forty-three percent of that amount was spent on single-family construction.[115] Forty-three

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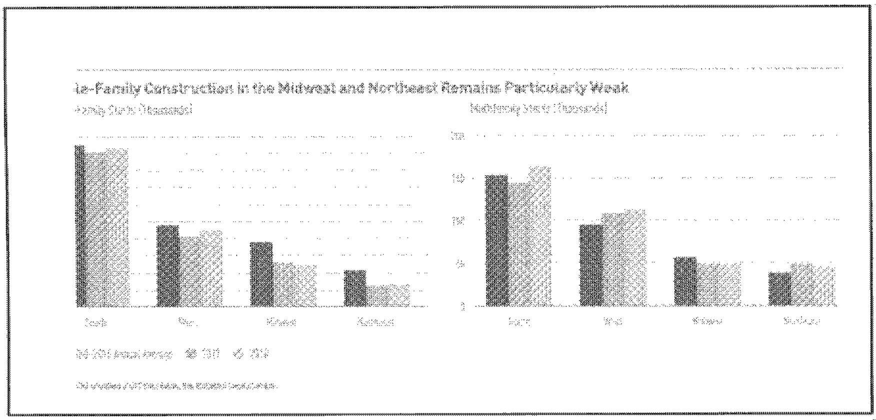
109 *Id.*
110 *Id.*
111 *Id.*
112 *What are Housing Starts?*, NAT'L ASS'N OF HOME BUILDERS, https://www.nahb.org/research/housing-economics/what-are-housing-starts.aspx. (last visited Nov. 24, 2019) (stating that "[a] start is defined as excavation (groundbreaking) for the footings or foundation of a residential structure.").
113 *The State of the Nation's Housing 2019*, *supra* note 70, at 7.
114 *Id.*
115 *Id.*

percent may seem like a relatively significant portion of the $658 billion in 2018 total construction spending, however, single-family home construction has accounted for an average of fifty-seven percent of such spending per year from 1995–2006, exemplifying the drastic decrease in the slice of the pie for present-day single-family home construction.[116]

While the decreased construction of new homes is evidently a nationwide phenomenon, results have shown that certain areas or regions of the United States have experienced greater decreases than others.[117] In 2017, total starts increased seven percent in the West and five percent in the South, but decreased less than one percent in the Northeast and four percent in the Midwest.[118] The Midwest arguably lags behind the other regions, due to the fact that single-family starts rose nine percent in the West, four percent in the Northeast, and three percent in the South, while starts declined five percent in the Midwest.[119] The graph below exemplifies the "weak" single-family construction numbers in the Midwest and Northeast, compared to the South and West regions.[120]



[121]

All of the data and findings discussed to this point are important, due to the fact that if these numbers and trends continue, it is highly likely that the millennial housing crisis will as well. Over time, "residential construction should exceed household growth to provide some margin for replacement of older units, demand for second homes,

[116] *Id.*
[117] *Id.* at 8.
[118] *Id.*
[119] *Id.*
[120] *Id.* at 9.
[121] *Id.*

geographic shifts in the population, and a normal amount of vacancies."[122] But, as the data has illustrated so far, construction of new housing, including manufactured housing placements, barely kept up with household growth for a majority of the past decade.[123] To put it in numerical terms, for every 100 new households formed between 2010-2018, roughly 100 units were added to the housing stock.[124] However, during the 1990s and 2000s, 146 units were added for every 100 households added, on average.[125] Perhaps even more interesting, while analyzing certain cities, JCHS found that, in eight out of fifty metros, the growth in households exceeded the number of housing permits given to construction companies.[126] Columbus, Ohio, was one of the top metros depicting this trend, with eighty-nine permits issued for every 100 net new households.[127]

IV. CASH FLOW LIQUIDITY

A. *Rental Prices*

With the increasing unaffordability of housing, many millennials are forced to rent for a longer period of time and, consequently, to spend more money on rent.[128] This would not be such a big problem if people could actually afford their rents; however, this is not possible for many Americans.[129] Renting costs are increasing more rapidly than wages, which means that a renter would need to make $22.96 an hour, on average, to afford a "modest" two-bedroom rental.[130] But, the

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[122] *Id.* at 8.
[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] *Id.*
[128] According to a new analysis from Rent Café, "younger millennials are paying a median total of $97,400 in 2017 dollars between the ages of 22 and 29, and those who are now 30 paid a median rent total of $93,400 in that eight-year span." Yoni Blumberg, *You Could Spend $97,000 on Rent Before You Turn 30 – That's Way More than Your Parents Did*, CNBC: MONEY (Mar. 28, 2018, 3:53 PM), https://www.cnbc.com/2018/03/28/millennials-spend-97000-on-rent-before-turning-30.html (citing a study from Rent Café: *Millennials Spend About $93,000 on Rent by The Time They Hit 30*, RENTCAFE BLOG: MONEY, RENTING (Mar. 27, 2018), https://www.rentcafe.com/blog/apartment-search-2/money/millennials-spend-93000-on-rent-by-the-time-they-hit-30/.).
[129] Catharine Smith, *3 Reasons Why Your Rent Is So High*, HUFFPOST (June 26, 2019), https://www.huffpost.com/entry/high-rent-reasons_n_5d03d65ae4b0304a120f25e4.
[130] *Id.*

federal minimum wage is only $7.25 an hour, and the national average renter's hourly wage is $17.57.[131] The Great Recession is one of the factors to blame (isn't it always?) for this disparity, due to the fact that homeowners, who had their homes foreclosed on, were forced to rent.[132] Additionally, at approximately the same time as the Great Recession, some older millennials were reaching the age at which they might have been able to start buying homes, but the economic circumstances forced them to remain in rentals.[133] In addition to the surplus of new and old renters, who were forced into the rental market, construction was practically halted, which drove up rental prices—especially in larger cities.[134] In numerical terms, household incomes fell by 7% and rents rose by 12%, between the years of 2000-2010.[135] As a result, the amount of cost-burdened renters around the U.S. more than doubled, since 1960 (24% in 1960, compared to 49% in 2014).[136] As of October 2019, the national average rent was $1,476.[137] The chart below compares median gross rents in increments of ten years to exemplify the rapid increase of rent prices in the 2000s.[138]

2019	2000	1990	1980	1970	1960	1950	1940
$994.63	$602	$571	$481	$415	$350	$257	$284

The results of calculating the differences between each decade are as follows: between 1940 and 1950, rent decreased by $27; between 1950 and 1960, rent increased by $93; between 1960 and 1970, rent increased by $65; between 1970 and 1980, rent increased by $66; between 1980 and 1990, rent increased by $90; between 1990 and 2000, rent increased by $31 and; in the nineteen years between 2000 and 2019, rent increased by $392.63. Although nearly twenty years between 2000 and 2019 are measured, the increase in rent during this

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131 *Id.*
132 *Id.*
133 *Id.*
134 *Id.*
135 Andrew Woo, *How Have Rents Changed Since 1960?*, RENTONOMICS (June 14, 2016), https://www.apartmentlist.com/rentonomics/rent-growth-since-1960/.
136 *Id.*
137 Irina Lupa, *Apartment Rents Begin to Lose Steam in July as the Monthly Rate Reaches $1,469*, RENTCAFÉ BLOG (Sept. 15, 2019), https://www.rentcafe.com/blog/category/rental-market/apartment-rent-report/.
138 It is worth noting that (1) reliable data was not found for 2010; and (2) the values are all in pegged to dollars, as of 2000, for comparison reasons. U.S. CENSUS BUREAU, HISTORICAL CENSUS OF HOUSING TABLES, GROSS RENTS, https://www.census.gov/hhes/www/housing/census/historic/grossrents.html (last revised Oct. 31, 2011).

period is arguably higher than it should be. The average increase in rent, from the years 1940–2000, is $53, yet, using the historical rate of rent increase to forecast what rent should have been, as of 2019, yields a rent figure that is inconsistent with the real price of rent. If the rent had increased at the historical rate, then in 2019, rent should have been approximately $708, if not less (the $708 figure is reached by adding $53 to the 2000 rent price, to compute 2010's rate, plus another $53, to predict 2020's rate). As exemplified by the numbers, rent in 2019 was more than $200 higher than these calculations would have predicted.

While the rental prices are historically high, eighty-two percent of renters believe renting is more affordable than owning.[139] In 2018, only sixty-seven percent agreed with this notion, exemplifying the rapid spread of this belief throughout society.[140] As with any generation, the expectation was that the demand for rental units would decline as millennials aged into their homebuying years.[141] However, the demand is only increasing.[142] In the second quarter of 2019 (April 2019 through June 2019), apartment demand increased eleven percent from last year, which, in turn, increased rental prices by an average of three percent nationally. The average price, therefore, was pushed to $1,390 per month.[143] Moreover, apartment construction started booming in 2014, and, since then, it has not significantly declined, even though lower mortgage rates were thought to persuade renters to start buying homes.[144] But, as discussed earlier, even with lower mortgage rates, the shortage of homes provides an unsolvable barrier to many would-be homeowners.[145]

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[139] "I think millennials ultimately aspire to have homes. I think it's still the American dream, but I call it the dream deferred and it's deferred because of student loans, the lack of having a large amount of equity, and they also enjoy flexibility versus fixity," Toby Bozzuto, CEO of The Bozzuto Group, a construction company, stated. Diana Olick, *Apartment Rental Demand Soars as More Millennials Believe It's Cheaper than Owning a Home*, CNBC: REAL ESTATE (July 8, 2019), https://www.cnbc.com/2019/07/08/rental-demand-soars-as-more-millennials-say-its-cheaper-than-owning-home.html.

[140] *Id.*

[141] *Id.*

[142] *Id.*

[143] *Id.*

[144] *Id.*

[145] *Id.*

B. *Student Loan Debt*

If one conducts even the most rudimentary Google, or other database, search into student loan debt, the results are not only astonishing, but also depressing. Student debt is just one more financial hurdle for millennials wanting to save for a home, and monthly student loan payments (ideally) should take precedence over saving money for a down payment on a home. Student loan debt payments should, and most often do, supersede other payments or savings accounts, due to the highly damaging consequences of default.[146] According to the FinAid website, a few consequences of default include one's loans being turned over to a collection agency, being sued for the entire amount of the loan, and one's wages being garnished.[147]

In 2019, it was estimated that some forty-four million Americans held nearly $1.6 trillion in student debt, in aggregate.[148] Extrapolating these statistics to reflect the entire U.S. population reveals that, in 2019, roughly eighteen percent of Americans over the age of eighteen were paying off student loans.[149] Moreover, the numbers are not any more in favor of young adults entering, or currently in the midst of, undergraduate education. According to the Federal Reserve's Report on the Economic Well-Being of U.S. Households from 2018 to May 2019, fifty-four percent of young adults who attended college took on debt, including student loans.[150] Additionally, in 2018, one-fifth of those with education debt had fallen behind on their payments.[151]

Just as many financial factors have worked against millennials in the last few decades (i.e., increases in rental prices and income), so, too, has student loan debt.[152] By the end of 2009, Americans retained roughly $772 billion in student loans. Only ten years later, in 2019, the

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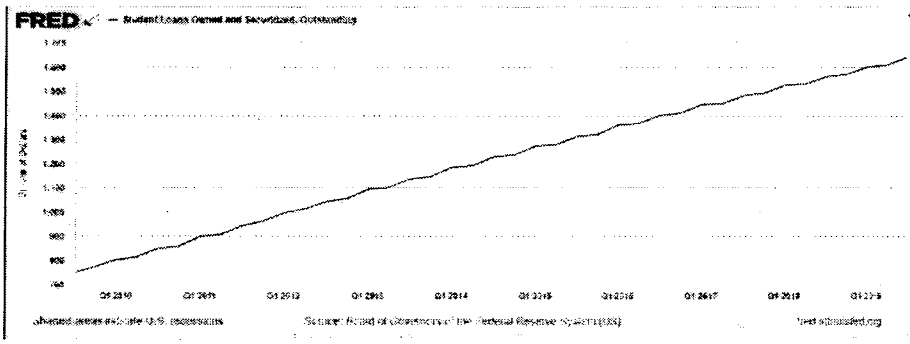
[146] *Defaulting on Student Loans*, FINAID, https://www.finaid.org/loans/default.phtml (last visited Feb. 1, 2020).
[147] *Id.*
[148] Abigail Hess, *Student Debt Increased by 107% this Decade, Federal Reserve Data Shows*, CNBC: WORK (Dec. 30, 2019), https://www.cnbc.com/2019/12/30/student-debt-totals-increased-by-107percent-this-decade.html.
[149] *Id.*
[150] REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2018-MAY 2019, BD. OF GOVERNORS OF THE FED. RES. SYS. (May 2019), https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-preface.htm.
[151] Michelle Singletary, *There Seems to be No End to the Rise in Student Loan Debt*, WASH. POST (Sept. 12,2019), https://www.washingtonpost.com/business/2019/09/12/whos-blame-massive-amount-student-loan-debt-america/.
[152] *Id.*

total had skyrocketed to almost $1.6 trillion—an increase of nearly 107%.[153] The chart below, provided in the Federal Reserve study mentioned above, epitomizes how much Americans' outstanding student debt has grown from the beginning of 2010 to the beginning of 2019.



[154]

There are ongoing debates as to who is at fault for the often unbearable amounts of debt that Americans face.[155] Some people blame the federal government for making it too easy to obtain the loans, while others scold colleges for making the costs of education too high.[156] Moreover, some people blame the borrowers themselves, arguing that they were irresponsible because they assumed too large an amount of debt.[157]

Regardless of who is to blame, many Americans seemingly agree that the price one pays for higher education is ludacris. To give a brief overview, in 1870, students could attend Brown University, for four years, for the total price of $300[158]—which equates to slightly under $6,000 in today's dollars.[159] In 1921, many colleges, including John Hopkins University, Boston University, and Harvard University cost

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[153] Hess, *supra* note 148.
[154] REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2017-MAY 2018, BD. OF GOVERNORS OF THE FED. RES. SYS. (May 2018), https://www.federalreserve.gov/publications/2018-economic-well-being-of-us-households-in-2017-student-loans.htm.
[155] *See generally* Singletary, *supra* note 151.
[156] *Id.*
[157] *Id.*
[158] *A Timeline of College Tuition*, BEST COLLEGES ONLINE, https://www.bestcollegesonline.com/blog/a-timeline-of-college-tuition/ (last visited Feb. 1, 2020).
[159] OFFICIAL DATA FOUND., *supra* note 30.

$250, or less, per year.[160] Therefore, one could attend Harvard for a total of $1,000, which equates to $14,356.09 today.[161] In 1940, it cost $450 for one semester at Yale, which totals $1,800 (equivalent to $33,039.51 today).[162] In the 1960s, college prices again experienced a surge, with a year at Bates costing $2,015, or $17,493, present value.[163] This equals approximately $69,972 for four years, in 2020. A year at Yale cost $6,210 in 1980, which is close to $19,366.61 today—this means a total of $77,466.44 for the full four years.[164] In 1990, a year at Yale, converted to current value of the dollar, cost $29,845.95, which calculates out to more than $119,000 for four years.[165] In the academic year of 1999–2000, a year at Yale was, adjusted to 2020 value, $36,561.34—$146,245.37 total.[166] Lastly, a year at Yale today costs $55,000, meaning a full four-year degree will cost a student $220,000.[167]

This table places the above numbers into a more digestible graph. All of these numbers have been converted into 2020 dollars.[168]

1870	1921	1940	1960
$6,000	$14,356.09	$33,039.51	$69,972
1980	1990	2000	2020
$77,466.44	$119,383.79	$146,245.37	$220,000

[160] *College Tuition In The 1920s –The Low Cost of Getting Higher Education*, STUFF NOBODY CARES ABOUT, https://stuffnobodycaresabout.com/2018/11/18/college-tuition-in-the-1920s-the-low-cost-of-getting-higher-education/ (last visited Feb. 1, 2020).
[161] OFFICIAL DATA FOUND., *supra* note 30.
[162] Rich Karlgaard, *Is College Worth It?*, FORBES (Mar. 10, 2006), https://www.forbes.com/forbes/2006/0327/039.html#410355335c09; OFFICIAL DATA FOUND., *supra* note 30.
[163] Lily Rothman, *Putting the Rising Cost of College in Perspective*, TIME (Aug. 31, 2016), https://time.com/4472261/college-cost-history/; OFFICIAL DATA FOUND., *supra* note 30.
[164] GEORGE PIERSON, A YALE BOOK OF NUMBERS, 1976–2000, 140 (2001) (ebook). https://oir.yale.edu/sites/default/files/pierson_update_1976-2000.pdf; OFFICIAL DATA FOUND., *supra* note 30.
[165] OFFICIAL DATA FOUND., *supra* note 30.
[166] *Id.*
[167] *Student Accounts*, YALE U., https://student-accounts.yale.edu/tuition-and-fees (last visited Feb. 1, 2020).
[168] OFFICIAL DATA FOUND., *supra* note 30.

V. SENATE BILL 139: SOME FEATURE SECTIONS AND WHAT THEY PROPOSE

When Senators Gavarone and Peterson introduced the "First-Time Home Buyer Savings Act," they did so with the main goal of giving "future generations" a "head start on saving enough money to make homeownership a reality instead of a dream."[169] Yet, as can be understood from Sections I, II, and III, above, millennials may not even have money to start saving in an account of this sort. For the very small percentage of millennials who do find money, this bill does offer some positives when it comes to saving for a first home. And for this reason, it is helpful to analyze some of SB 139's important provisions in addition to the Bill's pros and cons. However, keep in mind that irrespective of how good the pros are, or how bad the cons are, the Bill overlooks what actually prevents many millennials from buying homes: they don't have enough money to put towards saving for a home in the first place.

A. *Section 193.02(A)*

Following the definition section, Section 193.02(A) states that:

> [A]ny individual may open an account[170] at a financial institution[171] and designate the account, in its entirety, as a first-time home buyer savings account to be used to pay or reimburse a qualified beneficiary's[172] eligible costs[173] for the

[169] *Gavarone and Peterson Introduce Bill to Make Home Buying Affordable*, *supra* note 3.

[170] "First-time home buyer savings account" or "account" means an account at a financial institution that is designated by the account holder as a first-time home buyer savings account pursuant to this chapter for the purpose of paying or reimbursing eligible costs for the purchase of a single-family residence in this state by a qualified beneficiary. S.B. 139, 133d Gen. Assemb. § 193.01(F) (Ohio 2019).

[171] "Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in [Ohio]. *Id.* § 193.01(D).

[172] "Qualified beneficiary" means a first-time home buyer who is designated by the account holder of a first-time home buyer savings account. *Id.* § 193.01(G).

[173] "Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in this state by a qualified beneficiary. *Id.* § 193.01(C).

purchase of a single-family residence [174] in this state. Individuals who are married may jointly open, designate, and own a first-time home buyer savings account but, otherwise, a first-time home buyer savings account shall be owned by not more than one account holder.[175, 176]

1. *Section 193.02(A): Pros*

According to the Ohio Senate, this type of savings account can be opened at any financial institution in the state.[177] Why does this matter? Because the bill, so far, is not partaking in geographical discrimination in that the account can be opened at any financial institution, just like a checking or regular savings account.[178] If the bill had restricted this type of account to be opened only at the largest banking institutions within Ohio, such as U.S. Bank, Fifth Third Bank, and Huntington Bank,[179] then many rural Ohioans would not have easy access to an account of this sort. As the bill is currently written, an Ohioan living in Centerburg, Ohio,[180] could go to either of their two local banks—First-Knox National Bank or First Federal Savings & Loan—to open a first-time home buyer savings account, [181] accentuating the overarching symbolism that all Ohioans have access to this opportunity.

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[174] "Single-family residence" means a dwelling, including a unit in a multiple-unit dwelling and a manufactured home or mobile home, owned and occupied by a qualified beneficiary as a principle residence. A single-family residence includes so much of the land surrounding it as is reasonably necessary for the use of the dwelling or unit as a home. *Id.* § 193.01(I).

[175] "Account holder" means an individual who establishes, individually or jointly with the individual's spouse, a first-time home buyer savings account. *Id.* § 193.01(A).

[176] S.B. 139, 133d Gen. Assemb. (Ohio 2019).

[177] *Gavarone and Peterson Introduce Bill to Make Home Buying, supra* note 3.

[178] S.B. 139, 133d Gen. Assemb. (Ohio 2019).

[179] As of 2019, these banks hold the largest deposit share in Ohio. *Deposit Market Share Summary: Ohio*, S&P GLOBAL MARKET INTELLIGENCE, https://www.snl.com/web/client?auth=inherit#industry/inDepositMarketshareDetail?ID=OH&Year=2019&Refreshed=1&Number=10&Ownership=0&Market=0 (last visited Nov. 24, 2019).

[180] Centerburg, Ohio, is a town located a little under forty miles northeast of Columbus, Ohio. The population in Centerburg was 2,186 in 2017. *Centerburg, Ohio*, CITY-DATE.COM, http://www.city-data.com/city/Centerburg-Ohio.html (last visited Oct. 26, 2019).

[181] Google search for "banks in Centerburg, Ohio," https://www.google.com/search?q=banks+in+center burg+ohio&oq=banks+in+centerburg+ohio&aqs=chrome..69i57j0.6538j0j9&sourceid=chrome&ie=UTF-8.

2. *Section 193.02(A): Cons*

While it may be a benefit for married couples who have the option of opening an account together, many millennials may be unmarried, but cohabitating with a significant other, whom they plan to stay with indefinitely.[182] In comparison to previous generations, millennials are marrying—if they choose to get married at all—at a much older age.[183] The Knot,[184] a popular wedding planning website, conducted research in 2017 on the then-current average age of women and men that got married. The study found that the average age of marriage in 2017 was 29.2 for women and 30.9 for men, while in 1965, on average, women were 21 and men were 23 when they chose to say, "I do."[185]

There are a variety of reasons why millennials are putting off getting married until later in life (if at all), including that many feel they are not financially ready, a heightened focus on their respective careers, and fighting for personal values before sharing their lives with someone else.[186] Nevertheless, Senators Gavarone and Peterson seemed to either completely miss, or ignore, these critical considerations for millennials by restricting joint accounts to married couples only. To clarify, consider the following hypothetical: imagine two millennials, Sarah and Peter. They have been dating for five years and living together for two years. They rent an apartment together, with both of their names on the lease; they have a joint bank account; and both of their cars are owned jointly. Because both sets of their parents were in unhappy marriages that ended up in divorces, neither of them desire to get married, now, or in the future. However, they love each other and would like to eventually buy a house and start a family.

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[182] "For some young adults, living together has become a more common option than marriage, according to new U.S. Census Bureau estimates released today. In 2018, 15 percent of young adults ages 25-34 live with an unmarried partner, up from 12 percent 10 years ago." Benjamin Gurrentz, *For Young Adults, Cohabitation Is Up, Marriage Is Down*, U.S. CENSUS BUREAU (Nov. 15, 2018), https://www.census.gov/library/stories/2018/11/cohabitaiton-is-up-marriage-is-down-for-young-adults.html.

[183] Marissa Hermanson, *How Millennials Are Redefining Marriage*, THE GOTTMAN INST. (July 3, 2018), https://www.gottman.com/blog/millennials-redefining-marriage/.

[184] THE KNOT, https://www.theknot.com/?utm_source=google&utm_medium=cpc&utm_campaign=G_XO+Group_Brand_SEM_The+Knot_Planner&gclid=Cj0KCQjwi7DtBRCLARIsAGCJWBo7hzQwLZt7TM-q2zVdoq880NB49VCDKNFeWV4Fu1QakNGcG-zf258aAkJNEALw_wcB.

[185] Hermanson, *supra* note 183.

[186] *Id.*

Sarah and Peter are considered "well-off" millennials, in that they each have their respective student loan debts paid off, and each of them earn respectable salaries. Now, they want to focus on saving for a home together by opening a joint first-time home buyer savings account to keep their money in one place for their home. However, to their dismay, this was the first account they could not open together, adding inconvenience to their saving efforts. While the catalyst for this restriction in SB 139 is likely the current tax code (in that only legally married couples can file a joint tax return),[187] the restriction seems arbitrary and detrimental to the millennial generation. Moreover, there is no language contained in SB 139 addressing what happens in the event that two single, first-time home buyer savings account holders get married, before buying a house.[188] It is likely that the married couple will thereafter file a joint tax return, but, if they do not have the ability to merge their two accounts together, that will cause extra hassle for them in their respective tax filing processes.

A possible solution to these issues could lie in writing a separate section of the Bill dedicated to unmarried, yet cohabitating, individuals who would like to open a joint account together. Because they would not be eligible for filing a joint tax return with the IRS, the Bill could impose a lesser limit on the amount of deductions (as compared to married individuals) taken by qualifying cohabitating millennials, whose marital status remains legally single. Allowing unmarried, but cohabitating millennials to open a joint account may help to further encourage the couple to save together and make saving for a home less of a dream and more of a reality. Senators Gavarone and Peterson could look to how banks handle joint checking accounts owned by unmarried couples for more guidance on this issue.

B. *Section 193.02(B)*

This section allows an account holder to change the designated "qualified beneficiary"[189] at any time.[190]

1. *Section 193.02(B): Pros*

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[187] Publication 504, IRS, https://www.irs.gov/publications/p504#en_US_2018_publink1000175821_(last visited Oct. 26., 2019).
[188] S.B. 139, 133d Gen. Assemb. (Ohio 2019).
[189] *See supra* n. 172.
[190] S.B. 139, 133d Gen. Assemb. § 193.02 (Ohio 2019).

This part of the Bill can be seen as a "pro" because of different situations that would call for this kind of flexibility. Take, for example, a father who opens a first-time home buyer savings account for his daughter during her pre-teen years to start saving for her first home. While attending college, she meets her partner; together, they have saved enough for a down payment on a home and each have careers that would allow them to pay their mortgage with no problem. They choose to buy a house with their own money, due to a sense of pride.

2. *Section 193.02(B): Cons*

What happens to the daughter's first-time home buyer savings account if she does not use it? The father in this hypothetical, seeing that the middle son does not have as good of a career trajectory as the daughter, may decide to deem the son as the new qualified beneficiary of the account.[191] However, the father can only make the son the qualified beneficiary of the daughter's old account if the son never had an account in the first place. According to §193.02(D), "an account holder shall not designate the same qualified beneficiary for more than one account."[192] It is also worth noting that the father could not have both his daughter and son as the qualified beneficiaries of one account at the same time.[193] Section 193.02(C) does not allow this.[194] A possible solution to the barriers that a person in the father's position may face includes adding exceptions for family members into the bill that will allow parents to make the same child a qualified beneficiary of two accounts, if the unused account was previously held by a sibling of the qualified beneficiary.

C. *Section 193.02(E)*

Altering the illustration above, suppose that the father instead opened an account for both of his children at the same time. In this scenario, the middle son would already have his own account by the time the sister made it clear that she would not be using her account. To reiterate, the father could not just reassign the son to be an additional qualified beneficiary of the sister's account,[195] and he could

[191] *Id.* According to §193.02(D) of the bill, an individual can be the account holder of more than one account.
[192] *Id.* § 193.02(D).
[193] *Id.* § 193.02(C).
[194] *Id.* Section 193.02(C) states that "[a] first-time home buyer savings account shall not have more than one qualified beneficiary at any time."
[195] *Id.*

not designate the son as the new qualified beneficiary of the sister's account, because that would violate §193.02(D).[196]

If the father recognized these statutory issues, he could attempt to deem his wife the account holder of the sister's account. This would require utilization of §193.02(E), which states that an individual "may be designated as the qualified beneficiary on more than one first-time home buyer savings account only if the accounts are owned by different account holders."[197] However, the Bill does not answer whether an account holder can remove himself or herself from an account and designate another person to be the new account holder. Moreover, the father's strategic attempt to enable his son to benefit from both accounts would be futile if he and his wife had opened the accounts jointly, as a married couple.[198]

Luckily for the father, there is a way to avoid all of the complicated barriers illustrated above, and transfer the money from his daughter's account to his son's account. SB 139 allows for transfers between one first-time home buyer savings account to another first-time home buyer savings account without incurring a ten percent tax penalty on the account balance.[199]

D. *The Tax Penalty: A Con*

Section 193.06 sets out the tax penalty of the Bill, stating that certain actions made by an account holder may cause a ten percent penalty, on top of other applicable taxes and penalties.[200] This ten percent penalty will be imposed on amounts withdrawn from a first-time home buyer savings account:

> that are not transferred to another first-time home buyer savings account, debited by the financial institution with which the account is held to pay a service fee for administering the account, or used to pay eligible costs for the purchase of a single-family residence by a qualified beneficiary or to reimburse a qualified beneficiary for such eligible costs.[201]

Additionally, the penalty will be imposed on the "amounts remaining in the account on the thirty-first day of December of the

[196] *Id.* § 193.02(D).
[197] *Id.* § 193.02(E).
[198] *Id.* § 193.02(A).
[199] *Id.* § 193.06(B)(3).
[200] *Id.* § 193.06(A).
[201] *Id.* § 193.05(B)(1). For a definition of "Eligible costs" *see supra* n. 173.

fourteenth taxable year following the taxable year in which the account was opened."[202]

What happens when one account's money is transferred into another account? When is an account deemed "opened," once that transfer is completed? What are the implications if the qualified beneficiary was changed on an account? Is the account "opened" on the date that the original account holder opened it, or is it opened on the date at which the new qualified beneficiary was appointed to the account? Section 193.05(B)(3) answers these inquiries.[203]

If money was transferred from one first-time home buyer savings account to another, the account was deemed "opened" in the "earliest taxable year for which the account holder claimed a deduction . . . with respect to the first such account."[204] And, if the qualified beneficiary was changed at some point in the account's existence, the account is still deemed "opened" on the date that the account was first opened, not the date that the qualified beneficiary changed.[205]

Therefore, an account holder will incur a ten percent tax penalty if the account holder withdraws an amount from the account and does not: (1) transfer the money to another first-time home buyer savings account, (2) use the money to pay fees associated with the account, (3) use the money to pay eligible costs for the purchase of a single-family residence,[206] or (4) use the money to reimburse a qualified beneficiary for such eligible costs.[207] The account holder(s) will also have to pay the penalty on the amounts remaining in the account on December 31st of the fourteenth taxable year, after the taxable year in which the account was opened.[208] So, if a mother opened an account for her fourteen-year-old son in the taxable year of 2020, the son would have to use the money in his first-time home buyer savings account toward a single-family residence before December 31, 2034 (the year in which he would turn twenty-eight). If the son did not use the money in his account toward a single-family residence by December 31, 2034, then the mother would have to pay a ten percent penalty on the amount in the account, until the amount eventually is withdrawn or spent.[209]

Additionally, Senators Gavarone and Peterson included §193.05(C)(3) to prevent account holders from claiming a deduction

[202] S.B. 139, 133d Gen. Assemb. § 193.05(B)(3) (Ohio 2019).
[203] *Id.*
[204] *Id.*
[205] *Id.*
[206] *See supra* n. 174.
[207] S.B. 139, 133d Gen. Assemb. § 193.05(B)(1) (Ohio 2019).
[208] *Id.* § 193.05(B)(3).
[209] *Id.*

on any amount they deposit, after the fourteenth taxable year following the taxable year in which the account was opened.[210] Examining the tax penalty and prevention of deductions, from a policy perspective, it is simple to see why the government would want the penalty to be imposed on money in accounts held for longer than fourteen years. Account holders would receive an income tax deduction for the amount they deposit in the account, which is an incentive to many people. Nonetheless, incentives are abusable if people are given too much leeway. It can be presumed that the government is trying to prevent people from opening an account and holding it forever, just to receive the income tax deduction on the amounts they deposit. However, for people who actually want to use a first-time home buyer savings account for its designed purpose, fourteen years may seem like an arbitrary time deadline. Taking the example from the mother and son above, the son might not be ready to own a home by the time he is 28—maybe, by the age of 30, he will be. But, the mother will now have a penalty imposed on her because her son decides that he needs two more years before taking on the serious responsibility of owning a home.

E. *Section 193.05(D)*

Section 193.05(D) possesses positive and negative characteristics depending on one's perspective. This section reads: "[A] person other than the account holder who deposits money in a first-time home buyer savings account is not entitled to the deduction provided for under [§193.05]."[211]

1. *Section 193.05(D): Cons*

A final hypothecial will help explain this language. Assume that a father and mother open two joint First-time Home Buyer Savings Accounts: one for their eldest daughter and the other for their youngest daughter. For purposes of this hypothetical, assume also that SB 139 was passed and enacted into law. The two girls' grandparents, Bob and Dorothy, adore their granddaughters and want to help set them up for future financial success. As a result, they have consistently contributed to the two girls' 529 plans in an effort to help them pay for

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[210] *Id.* §193.05(C)(3).
[211] *Id.* § 193.05(D).

college.[212] The two girls' parents opened both of the 529 plans for them, but Bob and Dorothy were still able to contribute to the accounts and receive the benefit of claiming a tax deduction for themselves.[213]

When Bob and Dorothy saw that the First-time Home Buyer Savings Act was enacted in Ohio, they assumed that the accounts opened under the Act would be similar to a 529 plan—allowing them to contribute to the girls' accounts and claim a deduction for themselves. Unfortunately, the current language of SB 139 does not allow people like Bob and Dorothy (individuals who are not the "account holder") to receive a tax deduction on their contributions to their granddaughters' accounts. The only way Bob and Dorothy could contribute money to First-time Home Buyer Savings Accounts and receive a deduction is if they themselves opened two accounts for their granddaughters.[214]

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[212] 529 Plans are nationwide and sometimes state specific savings plans created for saving for college. They can go by different names, and in Ohio, a 529 plan is called CollegeAdvantage. According to the CollegeAdvantage website, "[f]amilies in any state can benefit from Ohio's 529 College Savings Plan. You're not required to live in Ohio and your student isn't required to attend school in Ohio." Moreover, the accounts grow tax-free and "qualified withdrawals are free from federal and state income tax." *Let's Define Ohio's 529 Plan*, OHIO'S 529 COLLEGEADVANTAGE, https://www.collegeadvantage.com/new-to-collegeadvantage/what-is-a-529 (last visited Jan. 31, 2020).

[213] Grandparents, who are Ohio taxpayers, can benefit from 529 gift contributions, by deducting their CollegeAdvantage gift contributions from their Ohio taxable income—specifically, they may deduct contributions up to $4,000 per year, per beneficiary, and contributions over $4,000 can be carried forward to future tax years, until fully deducted. *Contributing To A 529 Account Is Quick & Easy*, OHIO'S 529 COLLEGEADVANTAGE, https://www.collegeadvantage.com/give-the-gift-of-savings/contribute-to-an-account (last visited Jan. 31,2020). Additionally, many other states allow grandparents (or others), who contribute to a 529 plan, to claim a deduction for themselves, even if they do not, themselves, own the plan. Thirty-four states offer a state-income tax deduction for 529 college-savings plan contributions, and about two-thirds of those states let anyone, who is a resident of that state, take a deduction, despite lacking ownership of the account. The other third of the states permit one to deduct contributions, only if he or she is the account owner. Kimberly Lankford, *Tax Breaks for Generous Grandparents*, KIPLINGER (June 18, 2014), https://www.kiplinger.com/article/taxes/T002-C001-S003-tax-breaks-generous-grandparents-529-plans.html.

[214] Section 193.02(E) states "[a]n individual may be designated as the qualified beneficiary on more than one first-time home buyer savings account only if the accounts are owned by different account holders." S.B. 139, 133d Gen. Assemb. § 193.02(E) (Ohio 2019). Thus, Bob and Dorothy could open up an account for each granddaughter, even though their granddaughters are already qualified beneficiaries of the accounts opened by their parents.

2. *Section 193.05(D): Pros*

As previously mentioned, the categorization of this section as a pro or con depends on perspective. People similar to Bob and Dorothy from the example above, would see this Section as a con, because it presents barriers that keep them from contributing to their grandchildren's accounts. However, those who view this section as a safeguard against tax-evasive behavior would likely consider it a pro. Wealthy individuals tend to seek out opportunities that will allow them to claim tax deductions whenever possible (i.e., opening certain trust accounts), to keep more money in their pockets and away from the government's reach.[215] Allowing anyone, without restriction, to contribute to a first-time home buyer savings account would give wealthy individuals, looking to evade taxes, yet another mechanism to accomplish this objective. Thus, the safeguards contained in Section 193.05(D) could help prevent against tax-evasive behavior and avoid exacerbating existing demographic and social discrepancies associated with homeownership.[216]

VI. CONCLUSION

Senate Bill 139, at a bare minimum, exemplifies that lawmakers in Ohio recognize the current crisis that millennials are facing when it comes to their chances of owning homes in the near future. The Act would help to encourage saving for a home, by giving account holders incentives in the form of income tax deductions. It is likely to have the further effect of persuading people to start saving for a home sooner, rather than later.

Although Senators Gavarone and Peterson undoubtedly acted with good intentions when writing and introducing this Act, the underlying issues of the millennial housing crisis will still prevent many millennials from saving money for their first homes. While the proposed solutions, stated above, could help to make the Bill more generous to millennials and account holders from other generations

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[215] Michelle Fox, *Here are 5 Ways the Super-Rich Manage to Pay Lower Taxes*, CNBC: SMART TAX PLANNING (Feb. 22, 2019), https://www.cnbc.com/2019/02/21/here-are-5-ways-the-super-rich-manage-to-pay-lower-taxes.html.

[216] *See generally* XAVIER DE SOUZA BRIGGS ED., THE GEOGRAPHY OF OPPORTUNITY: RACE AND HOUSING CHOICE IN METROPOLITAN AMERICA (2006); Richard Florida, *Is Housing Inequality the Main Driver of Economic Inequality?* CITYLAB (Apr.13, 2018), https://www.citylab.com/equity/2018/04/is-housing-inequality-the-main-driver-of-economic-inequality/557984/.

alike, outside forces will continue to disrupt the Act from performing its intended purpose. As long as income levels remain stagnated, average rental prices increase, more people take on large amounts of student debt, and the supply of new housing remains low, millennials will not experience relief from the housing crisis surrounding their generation. Millennials are going to need significantly more assistance than the mere receipt of income tax deductions to help them become future homeowners.